

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THOMAS GERHARDT	:	
<i>Plaintiff</i>	:	Civil Action No.
	:	
v.	:	
	:	
MID-CENTURY INSURANCE	:	JURY TRIAL DEMANDED
COMPANY	:	
<i>Defendant</i>	:	

CIVIL ACTION COMPLAINT AND JURY DEMAND

I. PARTIES

1. Plaintiff, Thomas Gerhardt, is an adult individual and citizen of the Commonwealth of Pennsylvania residing therein at 134 Plymouth Road, Unit 3101, Plymouth Meeting, PA 19462.

2. Defendant, Mid-Century Insurance Company, was and is now a business entity, believed to be a corporation, duly organized and existing under the laws of the State of California and authorized to conduct business and issue policies of insurance in the Commonwealth of Pennsylvania, with its corporate headquarters and principal place of business located at 6301 Owensmouth Avenue, Woodland Hills, CA 91367. Defendant is a citizen of California for purposes of diversity jurisdiction.

II. JURISDICTION AND VENUE

3. Jurisdiction is conferred upon this Court by virtue of the parties' diversity of citizenship pursuant to 28 U.S.C. § 1332.

4. The amount in controversy in this action is in excess of seventy-five thousand (\$75,000.00) dollars, exclusive of costs and fees.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the within claims occurred within the District and because Defendant regularly conducts business within the District.

III. STATEMENT OF CLAIMS

6. At all times material herein, the Defendant acted by and through its agents, servants, employees, workmen and/or other representatives, who were, in turn, acting within the course and scope of their employment, agency and/or service for the same and under the direct control of the Defendant.

7. At all times material hereto, Plaintiff Thomas Gerhardt was insured by Defendant Mid-Century Insurance Company under a policy of automobile insurance which provided for underinsured motorist benefits, policy number 19325-69-20. A copy of the Declaration Pages for policy number 19325-69-20 covering the date of the accident at issue in this matter are attached as Exhibit “A” and incorporated by reference.

8. On or about July 14, 2019, while the aforementioned policy was in full force and effect Plaintiff Thomas Gerhardt was lawfully operating a certain 2016 Chevrolet Colorado motor vehicle with Georgia license plate number ZJS6984 in the course and scope of his employment with NAPA Auto Parts, northbound in the left travel lane of East Dekalb Pike and was proceeding through its intersection with Saulin Boulevard with a steady green traffic signal when, suddenly and without warning, a certain Mazda 626 motor vehicle owned by Emy Starankovic and operated by Noel B. House, which was traveling southbound on East Dekalb Pike, improperly attempted to make a left-hand turn onto Saulin Boulevard without adequate clearance to do so and violently struck the front driver’s side of Plaintiff’s vehicle, thereby

causing Plaintiff to sustain severe and permanent bodily injuries as described more fully hereinafter.

9. At the time of the aforementioned accident, the motor vehicle owned by Emy Starankovic and operated by Noel B. House was insured under a policy of automobile insurance issued by State Farm Mutual Automobile Insurance Company.

10. The aforementioned accident was caused solely by the negligence and carelessness of Emy Starankovic and Noel B. House and was not the result of the actions or inactions of Plaintiff Thomas Gerhardt.

11. By reason of the aforesaid negligence and carelessness of Emy Starankovic and Noel B. House, Plaintiff Thomas Gerhardt suffered severe and permanent injuries, including, but not limited to: a sternum fracture and chest pain, cervical whiplash, cervical, lumbar and thoracic spasm, multilevel disc bulges at C5-C6 and L2-L3, disc herniation at L5-S1, bilateral hip and knee pain, contusions to both knees, cervicogenic headaches, migraine headaches, left wrist pain, numbness and tingling in his left upper extremity and left hand, and abrasions to the knee and shin; as well as aches, pains, mental anxiety and anguish, and a severe shock to his entire nervous system. Plaintiff has in the past and will in the future undergo severe pain and suffering as a result of which he has in the past and will in the future be unable to engage in his usual activities, all to his great detriment and loss.

12. As a further result of the accident, Plaintiff Thomas Gerhardt has or will be obliged to receive and undergo medical care and attention and to expend various sums of money and to incur various expenses for the injuries he suffered, and he may be obliged to continue to expend such sums or incur such expenditures for an indefinite period of time in the future.

13. As a further result of the accident, Plaintiff Thomas Gerhardt has or may suffer a severe loss of his earnings and/or earning power, and he may incur such loss for an indefinite period of time in the future.

14. As a direct and reasonable result of the accident aforementioned, Plaintiff Thomas Gerhardt may hereafter incur other financial expenses or losses which do or may exceed the amounts which he may otherwise be entitled to recover under and pursuant to the Pennsylvania Motor Vehicle Financial Responsibility Law, 75 Pa. C. S. § 1701 et. seq. as amended, for which he claims damages herein.

15. Further, by reason of the aforesaid accident, Plaintiff Thomas Gerhardt has and/or may hereinafter incur other financial expenses all in an effort to treat and cure himself of the injuries sustained in the aforesaid accident.

16. As a further result of the accident, Plaintiff Thomas Gerhardt has or may have suffered injuries resulting in the permanent loss of use of a bodily function, dismemberment, and/or scarring, which may be in full or part cosmetic disfigurements which are or may be permanent, irreparable and severe.

17. Plaintiff settled his underlying claim against Emy Starankovic and Noel B. House for nearly the full amount of the applicable State Farm Mutual Automobile Insurance Company policy limit (\$95,000.00 of \$100,000.00 limit). The consent to settle is attached as Exhibit "B."

18. Notice of the aforesaid covered loss and Plaintiff's intent to pursue benefits was provided to the Defendant Mid-Century Insurance Company in a prompt and timely manner by Plaintiff and, at all times relevant hereto, Plaintiff fully complied with all of the terms and conditions required by the policy. A copy of Plaintiff's letter of representation is attached as Exhibit "C".

19. Plaintiff demands underinsured motorist benefits in the amount of the policy limits.

20. Mid-Century Insurance Company, despite Plaintiff's demand for underinsured motorist benefits under the Policy and submission of Plaintiff's medical specials – the same documentation which supported State Farm Mutual Automobile Insurance Company's tender of nearly the full limits of its policy, has refused, without legal justification or cause, and continues to refuse, to pay to the Plaintiff monies owed for the injuries suffered as a result of the aforesaid loss.

21. As a result of Defendant Mid-Century Insurance Company's failure and refusal to pay reasonable benefits to the Plaintiff as required under the Policy, Plaintiff has suffered losses and damages.

COUNT I
THOMAS GERHARDT v. MID-CENTURY INSURANCE COMPANY
BREACH OF CONTRACT

22. Plaintiff hereby incorporates by reference paragraphs one (1) through twenty-one (21) of the within Complaint, as though the same were fully set forth at length herein.

23. Defendant Mid-Century Insurance Company has failed to promptly offer payment of the reasonable and fair value of the claim for underinsured motorist benefits for bodily injury to Plaintiff.

24. Defendant has failed to reasonably investigate Plaintiff's claim such that a thorough and proper inquiry would have revealed that Plaintiff suffered serious and permanent injuries caused by the aforementioned accident described in this Complaint.

25. Defendant owes Plaintiff a contractual and statutory obligation to investigate, evaluate and negotiate Plaintiff's underinsured motorist claim in good faith and to arrive at a prompt and fair and equitable settlement.

26. For the reasons set forth above, Defendant has violated its obligations under the policy of insurance.

27. Defendant owes Plaintiff the policy limit in underinsured motorist benefits for bodily injury pursuant to the terms of the insurance policy which is the subject of this case and known to Defendant.

28. Despite submission of reasonable proof and demand for full and complete payment with respect to Plaintiff's aforesaid loss, the Defendant has not paid to Plaintiff all of the policy benefits to which he is entitled under the policy.

29. Defendant's denial of coverage was made without a reasonable basis in fact.

30. Defendant's refusal to indemnify Plaintiff's loss constitutes a breach of the insurance contract.

WHEREFORE, Plaintiff, Thomas Gerhardt, demands judgment against Defendant, Mid-Century Insurance Company, in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00).

COUNT II
THOMAS GERHARDT v. MID-CENTURY INSURANCE COMPANY
BAD FAITH– 42 PA. C.S.A. §8371

31. Plaintiff hereby incorporates by reference paragraphs one (1) through thirty (30) of the within Complaint as though the same were fully set forth at length herein.

32. Defendant Mid-Century Insurance Company has engaged in bad faith toward the Plaintiff with respect to its adjustment of Plaintiff's aforesaid covered loss, in violation of 42 Pa. C.S.A. §8371, et seq.

33. In furtherance of its bad faith and wrongful refusal to pay the full policy limits for Plaintiff's covered loss, the Defendant, acting by and through its duly authorized agents, servants, workmen and/or employees, have engaged in the following conduct:

- (a) failing to evaluate Plaintiff's claim objectively and fairly;
- (b) failing to complete a prompt and thorough investigation of Plaintiff's claim;
- (c) failing to pay Plaintiff's covered loss in a prompt and timely manner;
- (d) conducting an unfair and unreasonable investigation of Plaintiff's claim;
- (e) violating the fiduciary duty owed to the Plaintiff;
- (f) failing to reasonably and adequately evaluate or review the medical documentation in Defendant's possession;
- (g) failing to keep the Plaintiff or his representatives fairly and adequately advised as to the status of the claim;
- (h) unreasonably valuing the loss and failing to fairly negotiate the amount of the loss with Plaintiff or his representatives;
- (i) failing to make a reasonable settlement offer to Plaintiff despite receipt of medical specials which supported tender of the full policy limit in Plaintiff's third-party claim;
- (j) unreasonably withholding policy benefits;
- (k) acting unreasonably and unfairly in response to Plaintiff's claim; and

- (l) unnecessarily and unreasonably compelling Plaintiff to initiate this lawsuit to obtain policy benefits for a covered loss that Defendant should have paid promptly and without the necessity of litigation.

34. For the reasons set forth above, the Defendant has acted in bad faith in violation of 42 Pa. C.S.A. §8371, for which the Defendant is liable for statutory damages including interest from the date the claim was made in an amount equal to the prime rate of interest plus three percent, court costs, attorneys' fees, punitive damages and such other compensatory and/or consequential and incidental damages as permitted by law.

WHEREFORE, Plaintiff, Thomas Gerhardt, demands the court enter judgment in favor of the Plaintiff and against Defendant, Mid-Century Insurance Company, and award compensatory and punitive damages in an amount in excess of One Hundred Fifty Thousand Dollars (\$150,000.00).

JURY DEMAND

Plaintiff demands a trial by jury on all claims.

Respectfully,

SWARTZ CULLETON PC

By: /s/Brandon A. Swartz
Brandon A. Swartz, Esquire
Maria K. McGinty-Ferris, Esquire
Attorneys for Plaintiff,
Thomas Gerhardt

Date: August 1, 2024

EXHIBIT A



Auto Insurance Declaration Page

Policy Number: 19325-69-20

Effective: 6/26/2019 12:01 AM

Expiration: 12/26/2019 12:01 AM

Named Insured(s): Lisa J Gerhardt

134 Plymouth Rd Unit 3101
Plymouth Meeting, PA 19462-1461
lgerhardt93@msn.com

Underwritten By: MID-CENTURY INSURANCE COMPANY
6301 Owensmouth Ave.
Woodland Hills, CA 91367

Premiums

► **Policy Premium** \$1,219.50

This is not a bill.

Your bill with the amount due will be mailed separately.

Household Drivers

All persons who drive or will occasionally be driving any of the cars on the policy should be listed below. If anyone is missing or needs to be added, such as a newly licensed driver, you should contact your agent or the company to add that person before they begin to drive any of the cars covered on the policy.

Name	Driver Status	Name	Driver Status
Lisa J Gerhardt	Covered	Thomas Gerhardt	Covered

Vehicle Information

Veh. #	Year/Make/Model/VIN	Coverage	Deductible	Limit
1	2013 Ford Truck Escape 4D 4Wd Titanium 1FMCU9J91DUD31439	Comprehensive:	\$250	
		Collision:	\$500	
2	2013 Ford Truck F150 Super Pu 4X4 Super 1FTFX1EF5DFD32074	Comprehensive:	\$250	
		Collision:	\$500	

Vehicle Level Coverage Items

Coverage	Limits (applicable to all vehicles)	Premiums by Vehicle	
		Vehicle 1	Vehicle 2
Bodily Injury Liability	\$250,000 each person \$500,000 each accident Full Tort	\$107.70	\$159.20
Property Damage Liability	\$100,000 each accident	\$95.40	\$102.70
Comprehensive		\$43.30	\$63.60
Collision		\$114.30	\$127.10
Towing and Road Service		\$6.90	\$6.90
Rental Reimbursement	\$50 per day/\$1,500 max	\$43.70	\$43.70
FIRST PARTY BENEFITS		\$17.70	\$18.60
Medical Coverage	\$5,000 each person		

farmers.com Policy No. 19325-69-20

56-6176 1st Edition 5-17 4/30/2019

Questions?
Call your agent Foglia Agency LLC at
(215) 632-0745 or email
cfoglia@farmersagent.com

Manage your account:
Go to www.farmers.com to access
your account any time!

Page 1 of 3

Declaration Page (continued)

Coverage	Limits (applicable to all vehicles)	Premiums by Vehicle	
		Vehicle 1	Vehicle 2
Funeral Expense Benefits	\$2,500 each person	\$0.30	\$0.30
Income Loss Benefits	\$1,500 per month \$25,000 aggregate	\$8.00	\$8.40
Accidental Death Benefits	\$10,000 each person	\$1.30	\$1.40
Combination Package		Not Covered	Not Covered
Extraordinary Medical Benefits		Not Covered	Not Covered

Policy Level Coverage Items

Coverage	Limits (for all vehicles)	Per Policy
Uninsured Motorist Bodily Injury-with Stacking	\$250,000 each person \$500,000 each accident	\$46.00
Underinsured Motorist Bodily Injury-with Stacking	\$250,000 each person \$500,000 each accident	\$203.00

► **Policy Premium** **\$1,219.50**

Discounts

Discount Type	Applies to Vehicle(s)	Discount Type	Applies to Vehicle(s)
Multiple Car	1, 2	Auto/Renter	1, 2
Transfer	1, 2	Early Shopping	1, 2
Homeownership	1, 2	EFT	1, 2
Anti-Theft Dvce	1, 2	Passive Restraint	1, 2

Other Policy Features and Benefits

- Accident Forgiveness - prevents one accident from impacting your premium
- Incident Forgiveness - protects your premium from increases due to minor traffic violations
- Guaranteed Renewal - claims activity will not lead to cancellation or nonrenewal

Lienholder and Additional Interest

Vehicle	Lienholder	Loan Number
2013 Ford Truck Escape 4D 4Wd Titanium VIN: 1FMCU9J91DUD31439	Capital One Auto Fn PO Box 390907 Minneapolis, MN 55439-0907	Not Applicable

farmers.com Policy No. 19325-69-20

Questions?
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cfoglia@farmersagent.com

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Go to www.farmers.com to access
your account any time!

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Page 2 of 3

Declaration Page (continued)**Policy and Endorsements**

This section lists the policy form number and any applicable endorsements that make up your insurance contract. Any endorsements that you have purchased to extend coverage on your policy are also listed in the coverages section of this declarations document: 56-5750 1st ed.; H1169 1st ed.; J6284 1st ed.; J6887 1st ed.; J6934 1st ed.; J7204 2nd ed.; PA032 1st ed.

Other Information

- Total Citation/Accident surcharge for this policy is \$0.00.
- Vehicle 1,2 - Deductible waived if glass repaired rather than replaced.
- Go Green by logging onto Farmers.com or contacting your Farmers Agent.
- If this policy includes part G "Collision" coverage, then this policy covers "Collision" damage to rental vehicles ("non-owned auto") as described and limited by the terms of part G of the policy.
- Farmers Friendly Reviews are a great way to make sure you are receiving all the discounts for which you qualify, and identify any potential gaps in coverage. Contact your agent to learn more about the policy discounts, coverage options, and other product offerings that may be available to you.

***Information on Additional Fees**

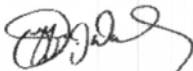
The "Fees" stated in the "Premium/Fees" section on the front apply on a per-policy, not an account basis. The following additional fees also apply:

- 1. Service Charge per installment** (In consideration of our agreement to allow you to pay in installments):
 - For Recurring Electronic Funds Transfer (EFT) and fully enrolled online billing (paperless): **\$0.00** (applied per account)
 - For other Recurring EFT plans: **\$2.00** (applied per account)
 - For all other payment plans: **\$5.00** (applied per account)
- 2. Late Fee: \$10.00** (applied per account)
- 3. Returned Payment Charge: \$20.00** (applied per check, electronic transaction, or other remittance which is not honored by your financial institution for any reason including but not limited to insufficient funds or a closed account)
- 4. Reinstatement Fee: \$25.00** (applied per policy)

If this account is for more than one policy, changes in these fees are not effective until the revised fee information is provided for each policy.

One or more of the fees or charges described above may be deemed a part of premium under applicable state law.

Countersignature



Authorized Representative

farmers.com

Policy No. 19325-69-20

Questions?

Call your agent Foglia Agency LLC at
(215) 632-0745 or email
cfoglia@farmersagent.com

Manage your account:

Go to www.farmers.com to access
your account any time!

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EXHIBIT B



Toll Free: (800) 435-7764
Fax: (877) 217-1389
Email: myclaim@farmersinsurance.com
National Document Center
P.O. Box 268994
Oklahoma City, OK 73126-8994

March 26, 2021

SWARTZ CULLETON PC
547 E WASHINGTON AVE
NEWTOWN PA 18940
Delivered by fax to: (215) 550-6557

RE:	Claim Number:	7002332980-1-2
	Insured:	Lisa Gerhardt
	Policy Number:	0193256920
	Loss Date:	07/14/2019
	Your Client:	Thomas Gerhardt
	Subject:	Important Claim Information

Dear Brandon Swartz, Esquire:

Mid-Century Insurance Company waives its subrogation rights and grants your client permission to settle the underlying bodily injury claim for Thomas Gerhardt with State Farm.

An uninsured motorist insurer's written consent to accept a settlement offer:

1. May not be construed to limit the insurer's right to raise any issue relating to liability or damages in an action against the insurer.
2. Does not constitute an admission by the insurer about any issue raised in an action against the insurer.

If you have any questions or concerns, call me at (610) 382-1840. My scheduled office hours are Monday through Friday from 8:00 a.m. to 5:00 p.m. Eastern Time.

Thank you.

Mid-Century Insurance Company

A handwritten signature in black ink, reading "Rachel E. Ruger". The signature is fluid and cursive, with the first name "Rachel" being the most prominent.

Rachel Ruger

Field Claims Representative

rachel.ruger@farmersinsurance.com

(610) 382-1840

COVID-19 Notice – In light of the national health emergency, I am currently working from home. I can be reached by telephone and e-mail; my phone number and email address have not changed. E-mail communications are preferred to avoid any potential delays caused by mailing. If you are unable to email and hard copies of communications are required, they may be sent to our National Document Center at P.O. Box 268994, Oklahoma City, OK 73126-8994. We are unable to receive deliveries at any location from FedEx, UPS or any other courier at this time, as our claims office locations have been temporarily closed.

EXHIBIT C

SWARTZ CULLETON PC

Christopher J. Culleton
Esquire

Brandon A. Swartz
Esquire

Todd M. Felzer, Esquire
Chairperson of the Workers
Compensation Department

Joseph P. Guzzardo
Esquire

Bryan M. Ferris
Esquire

Nicholas S. Jajko
Esquire

Matthew E. Gallagher
Esquire

Larissa K. Staszkiw
Esquire

Sarah R. Nayeem
Esquire

Maria K. McGinty-Ferris
Esquire

Please reply to:

547 E. Washington Avenue

Newtown, PA 18940

Phone: **215.550.6553**

Fax: **215.550.6557**

www.swartzculleton.com

Email:

cculleton@swartzculleton.com

bswartz@swartzculleton.com

tfelzer@swartzculleton.com

jguzzardo@swartzculleton.com

bferris@swartzculleton.com

njajko@swartzculleton.com

mgallagher@swartzculleton.com

lstaszkiw@swartzculleton.com

snayeem@swartzculleton.com

mmcginty-ferris@swartzculleton.com

30 S. 17th Street, 17th Floor
Philadelphia, PA 19103

The Sovereign Building, Suite 19
609 W. Hamilton Street
Allentown, PA 18101



January 18, 2021

Farmers

UIM Adjuster- Gregory Pratt

P.O. Box 268994

Oklahoma City, OK 73126

616-977-5817

Fax: 877-217-1389

Email: myclaim@21st.com

RE: Our Client: Tom Gerhardt
Date of Loss: 7/14/19
Your Insured: Tom Gerhardt
Claim No: 7002332980-1

Dear **UIM ADJUSTER:**

We represent the plaintiff, Tom Gerhardt, in the above referenced **UIM CLAIM**. Please be advised that all correspondence, service of pleadings and documents, and all other written communications with our office should be forwarded via email only to twegimont@swartzculleton.com. Regular mail delivery is not required.

Unless we hear from you to the contrary, our office will forward correspondence, service of pleadings and documents, and all other written communications to your office by email only. Kindly provide us with your e-mail address at your earliest convenience.

Thank you for your attention to this matter.

Very truly yours,

SWARTZ CULLETON PC



Lisa Berman

Administrative Assistant